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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHRIST'S CHURCH OF MT.

SPOKANE; WESTGATE CHAPEL,

Plaintiffs,

v.

JAY INSLEE, et al.

Defendants.

No. 2:20-CV-197-TOR

DEFENDANT SPOKANE

COUNTY SHERIFF OZZIE

KNEZOVICH'S RESPONSE

TO PLAINTIFF'S MOTION

FOR PRELIMINARY

INJUNCTION

I. Introduction

This case arises out of Plaintiffs' claim that certain emergency proclamations, implemented to slow the spread of COVID-19, unlawfully infringe on their constitutional rights. Plaintiffs ask this Court to modify Governor Inslee's Proclamation so that they may congregate indoors in the numbers larger than currently allowed.

Defendant, Ozzie Knezovich, Spokane County's duly elected Sheriff, takes

DEFENDANT SPOKANE COUNTY SHERIFF OZZIE
KNEZOVICH'S RESPONSE TO PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION

1 no position regarding the Plaintiff's challenge to Governor Inslee's Proclamation 20-
2 25.9¹. It is Sheriff Knezovich's position that should the Court finds the Governor
3 Inslee's Proclamation constitutional, the Court should affirm Sheriff Knezovich's
4 authority to enforce lawful orders.

5 **II. Background**

6
7 Plaintiff Christ's Church of Mt. Spokane is located in the unincorporated city
8 of Mead, Spokane County, Washington.

9 **III. Legal Argument**

10 A preliminary injunction is an "extraordinary and drastic remedy," 11A C.
11 Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 2948, p. 129 (2d
12 ed.1995) (footnotes omitted); it is never awarded as of right, *Yakus v. United States*,
13 321 U.S. 414, 440, 64 S.Ct. 660, 88 L.Ed. 834 (1944). Rather, a party seeking
14 a preliminary injunction must demonstrate, among other things, "a likelihood of
15 success on the merits," that it is likely to suffer irreparable harm in the absence of
16 preliminary relief, that the balance of equities tips in its favor, and that an injunction
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20 ¹ On December 21, 2020, Governor Inslee issued Proclamation 20-25.10, removing
21 the 200-person maximum attendance cap for houses of worship, weddings, and
22 funerals.
23

1 is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129
2 S. Ct. 365, 374, 172 L. Ed. 2d 249 (2008).

3 **A. Office of the County Sheriff**

4 In Washington, the office of sheriff is a constitutional office created by Article
5 11, § 5 of the Washington State Constitution (Amendment 12). Sheriffs exercise law
6 enforcement responsibilities and carry out various judicial responsibilities². The
7 sheriff is the “conservator of the peace” of the county, arrests persons who break the
8 “peace” or attempt to break the “peace,” arrests persons guilty of public offenses,
9 defends the county against persons who endanger the peace, and keeps and preserves
10 the peace. RCW 36.28.010. The law enforcement authority of the sheriff is
11 countywide, extending inside cities as well as in all unincorporated areas of the
12 county. RCW36.28.010 - .011; *State v. Knight*, 79 Wash. App. 670, 681, 904 P.2d
13 1159, 1165 (1995); Op. Att’y Gen. 61–62 No. 25 at 4–5 (April 28, 1961).
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16

17 ² The sheriff has judicial responsibilities including, responsibility for executing the
18 processes and orders of courts and judicial officers, executing warrants, attending all
19 sessions of courts of record in the county, and obeying lawful orders and directions
20 made by courts of record in the county. Sheriffs also conduct public auctions of
21 property seized under execution by courts. RCW 36.28.101(4)-(6).
22
23

1 The county sheriff enjoys broad discretion to determine how the office, and
2 its deputies, will prioritize and execute law enforcement functions and goals. *Miller*
3 *v. Pacific County*, 9 Wn. App. 177, 178, 509 P.2d 377, review denied, 82 Wn.2d
4 1013 (1973)(Courts may interfere in the discretionary acts of public officers only if
5 the act in question is so arbitrary and capricious as to evidence a total failure to
6 exercise discretion, and therefore, is not a valid act. *Murray v. Jefferson Cty. Sheriff*,
7 84 Wash. App. 1043 (1996); *See also, Jenkins v. Medford*, 119 F.3d 1156, 1162 (4th
8 Cir. 1997)(“By choosing a particular candidate to protect the citizens of the county,
9 the electorate vests in the sheriff broad discretion to set and implement the policies
10 necessary to carry out his goals.”); *Livas v. Petka*, 711 F.2d 798 (7th
11 Cir.1983)); *McBee v. Jim Hogg County*, 703 F.2d 834, 839, *vacated on other*
12 *grounds*, 730 F.2d 1009 (5th Cir.1984).

15 Sheriff Knezovich’s Actions

16 Defendant Ozzie Knezovich is the elected sheriff of Spokane County. Sheriff
17 Knezovich is committed to ensuring the safety of the residents of Spokane County.
18 To that end, Sheriff Knezovich in conjunction with other local jurisdictions and the
19 Spokane Regional Health District established a plan to address non-compliance with
20 the Governor’s Proclamations which supported education over enforcement for
21 voluntary compliance with the Governor’s Proclamations. *Declaration of Sheriff*

1 *Ozzie Knezovich*, ¶ 5-7.

2 While Sheriff Knezovich has the authority to enforce state law and lawful
3 emergency orders, he has not prioritized his resources to monitor for compliance
4 with the Governor's Proclamations, and has opted to work collaboratively with the
5 Spokane Regional Health District in lieu of exercising his authority to implement
6 criminal enforcement. *Declaration of Sheriff Ozzie Knezovich*, ¶ 8-9. Sheriff
7 Knezovich's approach to addressing non-compliance with the Governor's
8 Proclamations has been largely successful, as evidenced by the fact that no
9 organization has been referred for legal action. *Declaration of Sheriff Ozzie*
10 *Knezovich*, ¶ 10-11.

12 Notably, Plaintiffs' raise no claims against Sheriff Knezovich. Sheriff
13 Knezovich is named solely because he *could* take some speculative action. To the
14 extent that Plaintiffs' suggest that Sheriff Knezovich has taken any adverse action,
15 or engaged in any enforcement against them, they are mistaken. *Plaintiffs' Motion*
16 *for Temporary Injunction*, (ECF No. 37 at 3, ln.14) ("Defendant's threaten the
17 Churches with criminal penalties") Sheriff Knezovich has had no contact with
18 Plaintiff Christ's Church of Mt. Spokane, the only Plaintiff within his jurisdiction.
19 *Declaration of Sheriff Ozzie Knezovich*, ¶ 13.

20 Simply put, the Plaintiffs have made no allegation, and put forth no evidence
21

1 to demonstrate, that Sheriff Knezovich has, or is likely to, exercise his authority in
2 a manner that is Constitutionally prohibited or would otherwise support their cause
3 of action.

4 **IV. Conclusion**

5 The Spokane County Sheriff is the chief law enforcement officer for Spokane
6 County. In that capacity, he has the authority to enforce state law, including
7 provisions related to lawful emergency orders. The Sheriff defers to this Court
8 regarding the constitutional issues presented in this case and is prepared to act in
9 accordance with this Court's decision.
10

11 DATED this 22nd day of December, 2020

12
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14
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CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

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